



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6

1445 ROSS AVENUE, SUITE 1200  
DALLAS, TEXAS 75202 - 2733

Office of the Regional Administrator

June 15, 2017

Mr. Richard A. Hyde, P.E.  
Executive Director  
Texas Commission on Environmental Quality  
Post Office Box 13087  
Austin, Texas 78711-3087

Dear Mr. Hyde:

Thank you for your letter dated April 21, 2017, to the U.S. Environmental Protection Agency, requesting an extension of the May 30, 2017 deadline to submit the revised state plan to implement the emission guidelines for existing municipal solid waste landfills under 40 Code of Federal Regulations Part 60, Subpart Cf. The EPA recently announced convening a proceeding for reconsideration of certain requirements of Subpart Cf and stayed the effective date until August 29, 2017, pending the reconsideration. 82 Fed. Reg. 24878 (May 31, 2017).

As a result of the above-mentioned stay, a state plan submittal is not required at this time. The stay will allow the EPA to reconsider certain aspects of the emission guidelines for existing municipal solid waste landfills, and prepare a notice of proposed rulemaking that would provide an opportunity for public comment related to the topics under reconsideration. The EPA will follow up with your office prior to the expiration of the stay to discuss any changes that may affect the underlying basis for your extension request and whether you desire to modify or supplement your request.

If you have any questions, please contact me at (214) 665-2100, or your staff may contact Ms. Mary Stanton, Chief, Ozone and Infrastructure Section, at (214) 665-8377.

Sincerely,

A handwritten signature in blue ink, which appears to read "Samuel Coleman", is written over the typed name.

Samuel Coleman, P.E.  
Acting Regional Administrator

Enclosures

James M. Smith



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

May 5, 2017

THE ADMINISTRATOR

Mr. Carroll W. McGuffey III  
Mr. M. Buck Dixon  
Counsel for Republic Services  
Troutman Sanders LLP  
600 Peachtree Street NE, Suite 5200  
Atlanta, Georgia 30308

Mr. Barry Shanoff  
Counsel for Solid Waste Association of North America  
1100 Wayne Avenue, Suite 650  
Silver Spring, Maryland 20910

Mr. Kevin J. Kraushaar  
Counsel for National Waste & Recycling Association  
4301 Connecticut Avenue, NW, #300  
Washington, D.C. 20008

Ms. Carol F. McCabe  
Mr. Michael Dillon  
Counsel for Waste Management Inc. and  
Waste Management Disposal Services of Pennsylvania  
Manko, Gold, Katcher & Fox  
401 City Avenue, Suite 901  
Bala Cynwyd, Pennsylvania 19004

RE: Convening a Proceeding for Reconsideration of final rules entitled "Standards of Performance for Municipal Solid Waste Landfills," 81 Fed. Reg. 59332 and "Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills," 81 Fed. Reg. 59276, both published August 29, 2016.

Dear Mr. McGuffey, Mr. Dixon, Mr. Shanoff, Mr. Kraushaar, Ms. McCabe and Mr. Dillon:

This letter concerns a petition from National Waste & Recycling Association, Solid Waste Association of North America, Republic Services, Inc., Waste Management, Inc., and Waste Management Disposal Services of Pennsylvania, Inc., dated October 27, 2016, to the U.S. Environmental Protection Agency requesting reconsideration, and in some circumstances an administrative stay, of provisions included in the EPA's final rules entitled "Standards of Performance for Municipal Solid Waste Landfills," 81 Fed. Reg. 59332 (August 29, 2016) (i.e. the NSPS), and "Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills,"

81 Fed. Reg. 59276 (August 29, 2016) (i.e. the emission guidelines), pursuant to section 307(d)(7)(B) of the Clean Air Act.

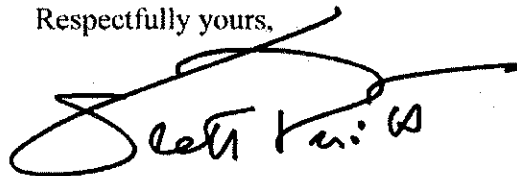
We find, under CAA section 307(d)(7)(B), that the petition has raised several objections to the provisions in both subpart XXX and subpart Cf that arose after the comment period or were impracticable to raise during the comment period and that are of central relevance to the outcome of the rule. Therefore, by this letter the EPA is convening a proceeding for reconsideration of the following topics: 1) tier 4 surface emission monitoring; 2) annual liquids reporting; 3) corrective action timeline procedures; 4) overlapping applicability with other rules; 5) the definition of cover penetration and 6) design plan approval. As part of the reconsideration process, the EPA expects to prepare a notice of proposed rulemaking that will provide an opportunity for notice and comment on the issues raised in the petition that meet the standard of CAA section 307(d)(7)(B), as well as any other matter we believe will benefit from additional comment.

As a result of this reconsideration, the EPA intends to exercise its authority under CAA section 307(d)(7)(B) to issue a 90-day stay of the effectiveness of both the NSPS (subpart XXX) and the emission guidelines (subpart Cf). The EPA believes it is appropriate to stay the effectiveness of both rules in their entirety because the topics listed above are integral to both rules. Sources need not comply with these requirements while the stay is in effect.

This letter does not address other requests for reconsideration raised in this and other petitions. Nor does it address the merits of, or suggest a concession of error on, any issue raised in the petition.

If you have any questions on this action, please contact Mr. Peter Tsirigotis in the Office of Air Quality Planning and Standards at (888) 627-7764 or [airaction@epa.gov](mailto:airaction@epa.gov).

Respectfully yours,

A handwritten signature in black ink, appearing to read "E. Scott Pruitt", with a large, sweeping flourish extending from the end of the signature.

E. Scott Pruitt

timeline procedures; (4) overlapping applicability with other rules; (5) the definition of cover penetration; and (6) design plan approval. As part of the proceeding, the EPA will prepare a notice of proposed rulemaking that will provide the petitioners and the public an opportunity to comment on the issues identified in that letter. As explained in the letter, the EPA has not taken action on the remaining issues in the petitions for reconsideration. A copy of the letter is included in the dockets for this rule, Docket ID No. EPA-HQ-OAR-2003-0215 and EPA-HQ-OAR-2014-0451.

The EPA convened a proceeding for reconsideration based on the determination that some of the objections raised in the petition for reconsideration met the criteria set forth in CAA section 307(d)(7)(B), 42 U.S.C. 7607(d)(7)(B), which requires the Administrator to convene a proceeding for reconsideration of a rule when the person raising an objection to a rule can demonstrate: (1) That it was either impractical to raise the objection during the period for public comment or that the grounds for the objection arose after the period for public comment; and (2) that the objection is of central relevance to the outcome of the rule. In particular, we determined that the tier 4 surface emissions monitoring (SEM) issues raised in the petition for reconsideration met those criteria. The proposed rule included tier 4 SEM as an optional monitoring method; however, the final rule imposed restrictions on the use of tier 4 SEM, *e.g.*, limits on wind speed, the use of wind barriers, and restricting the use of tier 4 SEM to landfills with non-methane organic compounds emission rates between 34 and 50 megagrams per year, that were not included in the proposal. While we believe that the restrictions are appropriate in light of the potential impact of the results of tier 4 SEM, we recognize that they were added without the benefit of public comment. Thus, we find that the petitioners have demonstrated that it was impractical to raise the objection during the period for public comment. We also find that the objection to the restrictions on the use of tier 4 SEM is of central relevance to the outcome of the rule. Tier 4 SEM can be used as a site-specific methodology for determining whether and when the requirement to install a gas collection and control system is triggered. The restrictions limit an owner's/operator's ability to use tier 4 SEM for those purposes, thereby reducing intended flexibility in the rule. If we had the benefit of public comment on the

restrictions, we might have structured the rule in such a way as to minimize any potential impacts on flexibility.

## II. Stay of Subparts Cf and XXX

By this action, the EPA is staying the subparts added or revised by two final rules, "Standards of Performance for Municipal Solid Waste Landfills," 81 FR 59332 and "Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills," 81 FR 59276 for 90 days pursuant to its authority under section 307(d)(7)(B) of the CAA. We believe that it is necessary to stay the subparts in their entirety because the tier 4 SEM provisions in the two rules are integral to how the rules function as a whole. The ability to use tier 4 SEM is a primary aspect of the flexibility we intended to include in the rule. Tier 4 SEM can be used to determine on a site-specific basis whether and when the requirement to install and operate a gas collection and control system is triggered. The tier 4 SEM provision provides flexibility in complying with other requirements in the rules that does not otherwise exist. As a result, we believe that it is appropriate to stay the subparts in their entirety while we address the tier 4 SEM issues and the other issues for which the Administrator has granted reconsideration. Therefore, pursuant to section 307(d)(7)(B) of the CAA, the EPA is staying 40 CFR part 60, subpart XXX, and 40 CFR part 60, subpart Cf, for 90 days.

This stay will remain in place until August 29, 2017.

## List of Subjects in 40 CFR Part 60

Environmental protection, Administrative practice and procedure, Air pollution control, Reporting and recordkeeping requirements.

Dated: May 22, 2017.

E. Scott Pruitt,  
Administrator.

40 CFR part 60 is amended as follows:

## PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

- 1. The authority citation for part 60 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

## Subpart Cf—[Stayed]

- 2. Subpart Cf is stayed from May 31, 2017 until August 29, 2017.

## Subpart XXX—[Stayed]

- 2. Subpart XXX is stayed from May 31, 2017 until August 29, 2017.

[FR Doc. 2017-10752 Filed 5-30-17; 8:45 am]

BILLING CODE 6560-50-P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[Docket No. 161118999-7280-02]

RIN 0648-XF410

### Fisheries of the Northeastern United States; Atlantic Sea Scallop Fishery; Closure of the Nantucket Lightship Access Area to General Category Individual Fishing Quota Scallop Vessels

AGENCY: National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Commerce.

ACTION: Temporary rule; closure.

**SUMMARY:** NMFS announces that the Nantucket Lightship Scallop Access Area will close to Limited Access General Category Individual Fishing Quota scallop vessels for the remainder of the 2017 fishing year as of the effective date below. No vessel issued a Limited Access General Category Individual Fishing Quota permit may fish for, possess, or land scallops from the Nantucket Lightship Scallop Access Area. Regulations require this action once it is projected that 100 percent of trips allocated to the Limited Access General Category Individual Fishing Quota scallop vessels for the Nantucket Lightship Scallop Access Area will be taken.

**DATES:** Effective 0001 hr local time, May 30, 2017, through March 31, 2018.

**FOR FURTHER INFORMATION CONTACT:** Shannah Jaburek, Fishery Management Specialist, (978) 282-8456.

**SUPPLEMENTARY INFORMATION:** Regulations governing fishing activity in the Sea Scallop Access Areas can be found in 50 CFR 648.59 and 648.60. These regulations authorize vessels issued a valid Limited Access General Category (LAGC) Individual Fishing Quota (IFQ) scallop permit to fish in the Nantucket Lightship Scallop Access Area under specific conditions, including a total of 837 trips that may be taken during the 2017 fishing year. Section 648.59(g)(3)(iii) requires the Nantucket Lightship Scallop Access

Ohio nonattainment area has been approved as submitted on June 29, 2016.

(e) EPA is approving the existing controls and maintenance provisions in the permit to install for the Ferro facility including the preventative maintenance plan, 0.3 tpy combined emissions limit for units P064 through P069 as well as the base control devices and upgrades, in addition the 0.009 tpy limit for P071

and all base control devices and upgrades for units P001, P071, P100, P101, and P951 as fulfilling the RACM/ RACT 172(c)(1) requirement.

# **PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES**

■ 4. The authority citation for part 81 continues to read as follows:

## **OHIO—2008 LEAD NAAQS**

Authority: 42 U.S.C. 7401 *et seq.*

■ 5. Section 81.336 is amended by revising the entry for “Cleveland, OH:” in the table entitled “Ohio—2008 Lead NAAQS” to read as follows:

### **§ 81.336 Ohio.**

\* \* \* \* \*

Designated area	Designation for the 2008 NAAQS <sup>a</sup>	
	Date <sup>1</sup>	Type
Cleveland, OH:		
Cuyahoga County (part) .....	5/31/2017	Attainment.
The portions of Cuyahoga County that are bounded on the west by Washington Park Blvd./ Crete Ave./East 49th St., on the east by East 71st St., on the north by Fleet Ave., and on the south by Grant Ave.		

<sup>a</sup> Includes Indian Country located in each county or area, except as otherwise specified.

<sup>1</sup> December 31, 2011, unless otherwise noted.

[FR Doc. 2017–10968 Filed 5–30–17; 8:45 am]  
BILLING CODE 6560–50–P

## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 60**

[EPA–HQ–OAR–2003–0215 and EPA–HQ–OAR–2014–0451; FRL–9963–19–OAR]

RIN 2060–AT62

### **Stay of Standards of Performance for Municipal Solid Waste Landfills and Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Stay.

**SUMMARY:** By a letter dated May 5, 2017, the Administrator announced the convening of a proceeding for reconsideration of certain requirements in the final rules, “Standards of Performance for Municipal Solid Waste Landfills,” and “Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills,” both published on August 29, 2016. In this action, the EPA is staying subparts, which were added or revised by the two rules, for 90 days pending reconsideration.

**DATES:** Title 40 CFR part 60, subpart Cf, and 40 CFR part 60, subpart XXX, are stayed from May 31, 2017 until August 29, 2017.

**ADDRESSES:** Electronic copies of this document are available on the EPA’s Web site at <https://www.epa.gov/stationary-sources-air-pollution/municipal-solid-waste-landfills-new-source-performance-standards>. Copies of this document are also available at <https://www.regulations.gov>, at Docket ID No. EPA–HQ–OAR–2003–0215 and EPA–HQ–OAR–2014–0451.

**FOR FURTHER INFORMATION CONTACT:** Mr. Peter Tsirigotis, Sector Policies and Programs Division (D205–01), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711; telephone number: (888) 627–7764; email address: [airaction@epa.gov](mailto:airaction@epa.gov).

#### **SUPPLEMENTARY INFORMATION:**

#### **I. Background**

On July 14, 2016, the U.S. Environmental Protection Agency (EPA) Administrator signed a final rule establishing new source performance standards (NSPS) intended to reduce emissions of landfill gas from new, modified, and reconstructed municipal solid waste (MSW) landfills, thereby updating standards that were issued in 1996. In a separate action, the Administrator also signed a final rule revising guidelines for reducing emissions from existing MSW landfills, thereby updating the previous emissions guidelines (EG), which also were issued in 1996. The NSPS are codified at 40 CFR part 60, subpart XXX, and the EG are codified at 40 CFR part 60, subpart Cf. For further information on these

2016 rules, see 81 FR 59332 and 81 FR 59276 (August 29, 2016).

On October 27, 2016, a number of interested parties submitted administrative petitions to the EPA seeking reconsideration of various aspects of the 2016 rules pursuant to section 307(d)(7)(B) of the Clean Air Act (CAA) (42 U.S.C. 7607(d)(7)(B)).<sup>1</sup> Under section 307(d)(7)(B) of the CAA, the Administrator shall convene a reconsideration proceeding if, in the Administrator’s judgment, the petitioner raises an objection to a rule that was impracticable to raise during the comment period or if the grounds for the objection arose after the comment period, but within the period for judicial review. In either case, the Administrator must also conclude that the objection is of central relevance to the outcome of the rule. The Administrator may stay the effectiveness of the rule for up to 3 months during such reconsideration.

In a letter dated May 5, 2017, based on the criteria in CAA section 307(d)(7)(B), the Administrator convened a proceeding for reconsideration. The May 5, 2017, letter announced the convening of an administrative reconsideration proceeding to reconsider the following topics from one petition: (1) Tier 4 surface emission monitoring; (2) annual liquids reporting; (3) corrective action

<sup>1</sup> Copies of these petitions are included in the docket for the 2016 rules, Docket ID No. EPA–HQ–OAR–2003–0215 and EPA–HQ–OAR–2014–0451.